
MEMORANDUM

TO: JENNIFER MURRAY – TOWN OF JERICOH DEPARTMENT OF PLANNING AND ZONING

FROM: DAVID W. BURKE

SUBJECT: NORTON MEADOWS - CONDITIONAL USE COMPLIANCE NARRATIVE

DATE: SEPTEMBER 9, 2014

From our review of the Town Regulations, Conditional Use review is required for multi – family, 2 units within a Conventional Subdivision but not required when proposed within a PUD. Excerpts supporting the same include:

S 10.13.1 Purpose: In whole, including " ... permitting flexibility in the application of Land Development Regulations".

S 10.13.1.3: Language is similar to Conditional Use language and likely the main reason Conditional Use is not required within a PUD;

S10.13.7 Permitted Density: "As provided in section 5.6 (Density), each potential lot in a Conventional Subdivision shall **entitle** the applicant to one (1) single family dwelling , or two [2] multifamily dwelling units within the PUD, provided all other requirements of these regulations can be met". The key word is "entitle". We believe the "... provided all other requirements of these regulations can be met" limits this AR zoned parcel to Multi-Family, 2 units, as Multi-Family (> 2 units) are not a listed use in the AR zone.

So, we don't believe the separate Conditional Use criteria apply. However, we understand that there is a "Grey Area" due to conflictions within the Regulations.

So, please see below for our conditional use narrative describing how the Multi-Family, 2 Units (Duplex's) within the Norton Meadows

O'Leary-Burke Civil Associates, PLC
1 Corporate Drive, Suite 1 Essex Jct., VT 05452
802-878-9990 Fax 802-878-9989

Subdivision meets the criteria outlined in Section 10.9.3 of the Town of Jericho Zoning Regulations:

Section 10.9.3 Standards: In granting approval for a conditional use, the Development Review Board shall determine the area likely to be affected and that the use shall not result in an undue adverse effect on any of the following general standards from the ACT [§4414(3)(1)]:

- 10.9.3.1. The capacity of existing or planned community facilities. The Development Review Board shall determine that facilities (e.g. water, sewer, schools, fire protection, roads) are reasonably available to serve the use or are planned to serve the proposed use at its anticipated time of occupancy.

Compliance: The duplexes will be served by on-site shared sewage disposal and on-site drilled wells in conformance with the State of Vermont Environmental Protection Rules and under their sole purview. In comparison to non-age restricted single family homes, the 55+ housing will have little to no impact on schools, no measurable difference in traffic (roads). The proposal, inclusive of duplexes is also in conformance with Fire requirements per the Department's review at Sketch.

- 10.9.3.2. The character of the area affected as defined by the purpose of the zoning district in which the use is located, and by specifically stated policies and standards of the Jericho Comprehensive Town Plan. At a minimum, the Development Review Board shall determine that:

(a) nuisance or hazard will not be created to the detriment of the health, safety, or welfare of the occupants of the proposed use or the citizens of Jericho;

Compliance: A nuisance or hazard will not be created to the detriment of the health, safety or welfare of the occupants of the proposed use or the citizens of Jericho due to the proposed 55 + age restricted Duplexes as compared to single family use.

(b) the proposed use, including any building associated with the use, will be in general harmony with the character of the

surrounding neighborhood and will not adversely impact abutting residences or other property; and

Compliance: The proposed 55+ age restricted Duplexes is in general harmony with the character of the Foothills subdivision and will not adversely affect abutting residences or other property (Underlined for emphasis) as compared to single family use on the parcel. Neighbors may argue duplexes are not allowed in the Foothills Subdivision, but that does not restrict abutting lands and while one can argue that Duplexes are not in harmony or that they affect their residences, they are in "general harmony" and will not "adversely affect" the area single family homes. Please also note that an Accessory Unit of up to 1,300 s.f. in size is an allowed use should single family homes be proposed, subject to conformance with the State Environmental Protection Rules. S 10.13.1.1 a sub-section of a PUD's purpose includes "... promote a mix of residential units .." which this proposal helps achieve when looked at in context of the single family homes in the Foothills Development. The 55+ aspect of the proposal results in single level (with basements) Duplexes.

(c) the proposed use, including any building associated with the use, will be compatible with the stated purpose of the zoning district in which the use will be located.

Compliance: The stated purpose of the AR District is ".. to provide dedicated land for agriculture, silviculture, and rural housing. Prime forest and agricultural land should be protected while allowing for limited, compatible development. Planned Unit Development provisions are recommended to preserve rural land and resources and to determine limited, appropriate sites for any new residential or other development". The proposed development of a portion of the Dean parcel with the duplexes clustered within a PUD, allows for continued Agricultural Use on the main portion of the Dean lands, allows for preservation of most of the subject parcel, including the entire wooded area.

10.9.3.3. Traffic on roads and highways in the vicinity: The Development Review Board shall determine that traffic generated or patterns of access or egress will not cause congestion, hazard, or detriment to the established neighborhood character. In making this determination, the Development Review Board may consider any traffic study required by Section 11.5.1 of these regulations.

Compliance: According to the Institute of Traffic Engineers three 55+ Duplexes will generate 1 AM peak hour trips, 1 PM peak hour trips and 21 daily trips as compared to three single family homes generating 2 AM peak hour trips, 3 PM peak hour trips and 29 daily trips. This low level of traffic does not require further traffic evaluation and the 55+ duplexes will create less traffic than 3 single family homes.

10.9.3.4. Bylaws and ordinances then in effect.

Compliance: The proposed improvements comply with the existing Bylaws and Ordinances in effect subject to approval from the DRB.

10.9.3.5. Utilization of renewable energy resources.

The proposed placement of the Units within the open portion of the parcel and the orientation of the Duplexes allows for partial solar gain and is the same as the orientation that single family homes would have.